THE HONOURABLE SRI JUSTICE V. ESWARAIAH

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WRIT PETITION No.63 of 2006

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Dated: 03-01-2006

Between:

V.P.Padma

… Petitioner

a n d

1. The Chairman and Managing Director, CPDC of A.P.Ltd (A.P.Transco) having its office at Singarani Bhavan, Hyderabad and others

… Respondents

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ORDER:

It is stated that the petitioner is the owner of the house bearing No.1-6-249/10/C, Ramnagar, Hyderabad. It is stated that the vendor of the petitioner obtained a power supply connection bearing No.F.1004995 falling under service category LTI for domestic purpose. The said service connection was inspected on 20-12-2005 at 12.05 PM and when the officials of the respondents have visited the premises of the petitioner, they found that the petitioner was illegally availing power supply. The

third respondent had issued Provisional Assessment Notice No.ADE/OP/D-VI/C-II/AZAMABAD/D.NO.237 dated 24-12-2005 towards the irregularities committed by the petitioner based on the said inspection report. The energy pilfered/misused by the petitioner was estimated at Rs.86,297/- and the service connection was disconnected. As it was demanded to pay Rs.43,148.50ps for obtaining restoration of the service connection, the petitioner paid a sum of Rs.19,433/- and accordingly the service connection was restored.

2. Under Section 126 of the Electricity Act, 2003 (for short – 'the Act'), any person served with the order of provisional assessment shall be given an opportunity to file his objections within seven days and if no objections are filed within seven days and if the person accepts the provisional assessment he shall pay, otherwise, if any objections are filed, the said objections have to be considered and in accordance with Sub-section 5 of Section 126 of the Act, a final order is to be passed, which is appealable. But, there is no power to disconnect the service connection based on the provisional assessment order.

3. Having regard to the fact that a Division Bench of this Court in W.A.Nos.452 and 477 of 2001 dated 11.3.2004, between *M/s.Mallikarjuna Polishing Industries and Chief Managing Director, Transmission Corporation of A.P.Ltd*., has taken the view that under the provisional assessment order, the service connection cannot be disconnected unless the final orders are passed.

4. Having regard to the facts and circumstances, the petitioner is permitted to file her explanation within seven days from the date of receipt of a copy of this order and on filing such objections, the same may be considered and disposed of by the second respondent and the second respondent shall pass a final assessment order according to Section 126 of the Act and till then the balance amount pursuant to the provisional assessment shall not be demanded and on passing the final order the amount already paid shall be adjusted. No costs.

03-01-2006

cvrk